(2)

Supreme Court, U.S.
FILED
05-199 AUG 8 - 2005
OFFICE OF THE CLERK

No.

IN THE

Supreme Court of the United States

RAYMOND STACEY, INDIVIDUALLY AND AS
CO-EXECUTOR OF THE LAST WILL OF HELEN STACEY
Petitioners

v.

CITY OF HERMITAGE, ET AL.
Respondents

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Third Circuit

PETITION FOR WRIT OF CERTIORARI

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August 8, 2005

QUESTIONS PRESENTED

I. Did the Third Circuit Court of Appeals err in affirming the District Court by expansively interpreting the ***Rooker-Feldman*** doctrine to incorporate ***preclusion principles*** which divest federal courts of jurisdiction because state-court proceedings presented similar or identical issues, even though the U.S. Supreme Court recently ruled in *Exxon Mobil* that such a bloated use of ***Rooker-Feldman*** is wrong and must be rejected?

II Was the Third Circuit wrong in barring ***pro se*** claims under ***Rooker-Feldman*** where the plaintiff was ***not a party*** in state court and presented ***independent claims*** of wrongful conduct, i.e., denial of access to the courts, seizures of property without warrants, civil conspiracy, diversity breach of contracts?

III. Did the Third Circuit err by affirming the District Court's imposition of a heightened pleading standard on ***pro se*** litigants through the appellate court's demand that the ***pro se*** litigants anticipate in their complaint the legitimacy of an ***affirmative immunity defense***?

IV. Did the Third Circuit err because it could not know what it was affirming when it reviewed (and partially reversed) the District Court's summary dismissal of every claim in the complaint (for all the reasons stated in ten motions to dismiss) on conflicting grounds that the court lacked ***subject matter jurisdiction*** over plaintiffs' cause ***and*** on grounds the court could also proceed to make a decision on the ***ultimate merits***?

V. Did the Third Circuit err when it ruled *sua sponte* that the ***pro se*** plaintiff lost his judicial rights to ***self-representation*** based on the court's interpretation of foreign state-law authority, with no challenge raised below?

PARTIES TO THE PROCEEDING

Petitioners:
RAYMOND STACEY, Individually and as
Co-Executor of the Last Will of Helen Stacey;
ESTATE OF HELEN STACEY.

Respondents:
CITY OF HERMITAGE, Mercer County, Pennsylvania;
GARY P. HINKSON, Individually and in Official Capacity as City Manager of Hermitage;
EDWARD STANTON, Individually and in Official Capacity as Police Chief of Hermitage;
RUSSELL V. PENN, JR., Individually and in Official Capacity as City Inspector of Hermitage;
JEFFREY OSBORNE, Individually and in Official Capacity as Asst. City Inspector of Hermitage;
ROBERT S. GOELTZ, Individually and in Official Capacity as Fire Marshall of Hermitage;
JAMES PAT WHITE; Individually and in Official Capacity as Commissioner of Hermitage;
THOMAS W. KUSTER;
H. WILLIAM WHITE, III;
EKKER, KUSTER, MCCONNELL & EPSTEIN, Attorneys at Law, Individually and in Official Capacity as Solicitors for Hermitage;
CHRISTOPHER FERRY;
WATTS & PEPICELLI, Attorneys at Law;
JERRY G. CARTWRIGHT, JR., Attorney at Law;
PENN POWER CO.;
OHIO EDISON CO., thru its Employees and Agents;
RICHARD SEREDAY and
ROSEANN SEREDAY, doing business as
SEREDAY EXCAVATING;
VIROSTICK TRANSFER, thru its Owners, Employees and Agents;

WODZIANSKI & SMITH, thru its Owners, Employees and Agents;
RICHARD G. ENGLISH & ASSOC., thru its Owners, Employees and Agents;
THOMAS R. DOBSON, Individually and in Official Capacity as Common Pleas Judge of Mercer County;
ELIZABETH F. FAIR, Individually and in Official Capacity as Prothonotary of Mercer County, thru her Office, Employees and Agents.

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Petitioners through counsel respectfully ask that a Writ of Certiorari issue to review the judgment and opinion of the U.S. Court of Appeals for the Third Circuit entered on November 24, 2004, and reissued on May 19, 2005.

OPINIONS BELOW

The judgment and opinion of the panel for the Third Circuit U.S. Court of Appeals was entered November 24, 2004, as an unreported decision and is set forth in the Appendix (App. 1). The memorandum order of the U.S. District Court was entered September 22, 2003; it is also unreported and is set forth in the Appendix (App. 12). The Third Circuit's order denying the Petition for Rehearing was entered on May 11, 2005 (App. 14).

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). The order of the United States Court of Appeals for the Third Circuit affirming in part, vacating and remanding in part the District Court's order of September 22, 2003 (summary dismissal of all Plaintiffs' claims) was issued on November 24, 2004 (App. 10). The Court of Appeals denied Petitioners' Petition for Rehearing on May 11, 2005. The certified copy of the judgment was reissued on May 19, 2005 (App. 11), in lieu of a formal mandate after its recall on April 15, 2005.

The questions presented did not arise until Petitioners received the Third Circuit Court of Appeals' opinion and judgment affirming in part, vacating and remanding in part the District Court's order of September 22, 2003, which dismissed all claims in Plaintiffs' Complaint.

Petitioners sought leave to file a Petition for Rehearing out of time and were granted permission to do so by order of the Court of Appeals. Petitioners argued therein that the Court of Appeals had erred for several reasons and in so doing relied on the jurisdictional ***Rooker-Feldman*** doctrine [1] whose expansion by the Third Circuit was explicitly rejected by this Court recently in ***Exxon Mobil***. [2]

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). The jurisdiction of the United States District Court for the Western District of Pennsylvania was invoked pursuant to 28 U.S.C. §§ 1331, 1332 and 1343.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

U.S. CONST. amend. I:
Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. CONST. amend. IV:
The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation,

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[1] The doctrine is named for the cases *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923) and *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983), and "is confined to cases...brought by state-court losers complaining of injuries caused by state-court judgments...and inviting district court review and rejection of those judgments." See ***Exxon Mobil***, *next*, at 1521-22

[2] *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. ----, 125 S.Ct. 1517 (Mar 30, 2005) (herein as "***Exxon Mobil***").